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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/733,574	12/12/2003	Yvette Fleury Rey	88265-6938	8640

29157 7590 10/13/2005

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EXAMINER

TRAN LIEN, THUY

ART UNIT	PAPER NUMBER
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1761

DATE MAILED: 10/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/733,574

Applicant(s)

FLEURY REY ET AL.

Examiner

Lien T. Tran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

The 112 second paragraph rejection of claims 18-19 is maintained for the reason set forth in the previous office action.

The 112 first paragraph rejection of claims 1-4, 6-7 and 9-19 is maintained for the same reason set forth in the previous office action.

Claims 1-3, 7-9, 11-16 and 19 are rejected under 35 U.S.C. 102(e) as being anticipated by Bel Rhlid et al for the same reason set forth in the previous office action.

Claims 1, 4-5, 7-8 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Jp 74006108 for the same reason set forth in the previous office action.

Claims 6, 10, 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over BelRhlid et al for the same reason set forth in the previous office action.

In the response filed 7/25/05, applicant argues claims 18-19 are not indefinite because there are different alternatives of preparing dough and bakery products such as proceeding with or without yeast; applicant states "with yeast, the dough can be allowed to ferment ..., without yeast, the dough does not ferment". This argument is not persuasive. It is not questioned that there are alternatives to preparing dough. The rejection is made on the basis of indefinite because it is not clear what is intended by "fermenting the dough if necessary". The scope of the claim is not defined because it is not clear if the fermenting step is included or excluded. Applicant states in the argument that with yeast, the dough can be allowed to ferment; the dough in claim 18 contains yeast. However, it is not clear if the fermenting step is included or not; what does applicant intend by the phrase "if necessary"?

With respect to the 112 first paragraph rejection, applicant argues any other suitable amino acids and sugars could also be used. This argument is not persuasive because there is no disclosure or evidence for one to conclude that any amino acid will work in the conversion. The specification specifically discloses arginine, citrulline, glutamine, ornithine and proline and does not state that any amino acid will work in the reaction. One would have to test all available amino acids and then test the end result of such amino acids to see if the same aromatizing composition as claimed is produced. Such experimentation is undue and thus the claims are not enabling for all amino acids.

With respect to the 102 rejection over Bel Rhlid et al, applicant argues Rhlid teaches a process whereby a sulfur containing compound is reacted with an organic acid in the presence of yeast. While Bel Rhlid et al teach the conversion with organic acid, the reaction also is carried out in the presence of a such as glucose. The claims do not exclude the organic acid disclosed by Bel Rhlid et al. The sulfur containing compound include peptides which are compound containing two or more amino acids linked to each others. Claim 1 recites at least two amino compound selected from the group consisting of amino acids and peptides. Applicant further argues the sugar in Rhlid is used as an initial substrate. The claims do not set forth the time at which the sugar is added; thus, the time of sugar addition is not a limitation to be considered. Applicant statement with respect to example 5 is not understood. Bel Rhlid et al clearly disclose the reaction is carried out in the presence of sugar. Applicant's attention is directed to column 2 lines 29-31 and example 1.

With respect to the Japanese patent, applicant argues the patent does not disclose preparing aroma precursors, but rather aroma per se. This argument is not understood. The claims recites a preparation of an aromatizing composition and the reference teaches the preparation of aromatizing composition. There is no distinction of aroma precursors or aroma in the claims. A flavour additive is the same as aromatizing composition; the difference is only in the terminology used. The reaction taught by the reference is the same as claimed.

Applicant's arguments filed 7/25/05 have been fully considered but they are not persuasive.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lien T. Tran whose telephone number is 571-272-1408. The examiner can normally be reached on Tuesday, Thursday-Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cano Milton can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

October 11, 2005

*Lien Tran*  
LIEN TRAN  
PRIMARY EXAMINER  
*Group 1702*

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